

MESERVE, MUMPER & HUGHES LLP
Anna Martin (NV Bar No. 7079)
amartin@mmhllp.com

316 California Avenue, #216
Reno, NV 89509
Telephone: (775) 833-2269
Facsimile (775) 833-2279

800 Wilshire Boulevard, Suite 500
Los Angeles, California 90017-2611
Telephone: (213) 620-0300
Facsimile: (213) 625-1930

TROUTMAN SANDERS LLP
Chad R. Fuller (Pro Hac Vice to be filed)
chad.fuller@troutmansanders.com
Virginia Bell Flynn (Pro Hac Vice to be filed)
virginia.flynn@troutmansanders.com

11682 El Camino Real, Suite 400
San Diego, CA 92130
Telephone: (858) 509-6000
Facsimile: (858) 509-6040

Attorneys for Defendant
AMERIGROUP CORPORATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
LAS VEGAS

RONNI PICHARDO, on behalf of herself and all)
others similarly situated,)

Plaintiff,)

vs.)

AMERIGROUP CORPORATION,)

Defendant.)

Case No. 2:17-cv-00276 RFB-CWH

AGREED CONFIDENTIALITY ORDER

The parties to this Agreed Confidentiality Order have agreed to the terms of this Order;
accordingly, it is ORDERED:

1. **Scope.** All materials produced or adduced in the course of discovery, including initial disclosures, responses to discovery requests, deposition testimony and exhibits, and information derived directly therefrom (hereinafter collectively “documents”), shall be subject to this Order

1 concerning Confidential Information as defined below. This Order is subject to the Local Rules of
2 this District and the Federal Rules of Civil Procedure on matters of procedure and calculation of time
3 periods.

4 2. **Confidential Information.** As used in this Order, “Confidential Information” means
5 information designated as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” by the
6 producing party that falls within one or more of the following categories: (a) information prohibited
7 from disclosure by statute; (b) information that reveals trade secrets; (c) research, technical,
8 commercial, or financial information that the party has maintained as confidential; (d) medical
9 information concerning any individual; (e) personal identity information; (f) income tax returns
10 (including attached schedules and forms), W-2 forms, and 1099 forms; or (g) personnel or
11 employment records of a person who is not a party to the case.¹ Information or documents that are
12 available to the public may not be designated as Confidential Information.
13

14 3. **Designation.**

15 (a) A party may designate a document as Confidential Information for protection
16 under this Order by placing or affixing the words “CONFIDENTIAL – SUBJECT TO
17 PROTECTIVE ORDER” on the document and on all copies in a manner that will not interfere with
18 the legibility of the document. As used in this Order, “copies” includes electronic images, duplicates,
19 extracts, summaries, or descriptions that contain the Confidential Information. The marking
20 “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” shall be applied prior to or at the time
21 of the documents are produced or disclosed. Applying the marking “CONFIDENTIAL – SUBJECT
22 TO PROTECTIVE ORDER” to a document does not mean that the document has any status or
23 protection by statute or otherwise except to the extent and for the purposes of this Order. Any copies
24 that are made of any documents marked “CONFIDENTIAL – SUBJECT TO PROTECTIVE
25
26

27 ¹ If protection is sought for any other category of information, the additional category shall be described in
28 paragraph 2 with the additional language redlined to show the change in the proposed Order.

1 ORDER” shall also be so marked, except that indices, electronic databases, or lists of documents that
2 do not contain substantial portions or images of the text of marked documents and do not otherwise
3 disclose the substance of the Confidential Information are not required to be marked.

4 (b) The designation of a document as Confidential Information is a certification
5 by an attorney or a party appearing pro se that the document contains Confidential Information as
6 defined in this order.²

7
8 **4. Depositions.**³

9 Deposition testimony is protected by this Order only if designated as “CONFIDENTIAL –
10 SUBJECT TO PROTECTIVE ORDER” on the record at the time the testimony is taken. Such
11 designation shall be specific as to the portions that contain Confidential Information. Deposition
12 testimony so designated shall be treated as Confidential Information protected by this Order until
13 fourteen days after delivery of the transcript by the court reporter to any party or the witness. Within
14 fourteen days after delivery of the transcript, a designating party may serve a Notice of Designation
15 to all parties of record identifying the specific portions of the transcript that are designated
16 Confidential Information, and thereafter those portions identified in the Notice of Designation shall
17 be protected under the terms of this Order. The failure to serve a timely Notice of Designation waives
18 any designation of deposition testimony as Confidential Information that was made on the record of
19 the deposition, unless otherwise ordered by the Court.
20

21 **5. Protection of Confidential Material.**
22
23
24

25 ² An attorney who reviews the documents and designates them as CONFIDENTIAL – SUBJECT TO
26 PROTECTIVE ORDER must be admitted to the Bar of at least one state but need not be admitted to practice in the
27 District of Nevada unless the lawyer is appearing generally in the case on behalf of a party. By designating documents
confidential pursuant to this Order, counsel submits to the jurisdiction and sanctions of this Court on the subject matter of
the designation.

28 ³ The parties or movant seeking the order shall select one alternative for handling deposition testimony and
delete by redlining the alternative provision that is not chosen.

1 (a) **General Protections.** Confidential Information shall not be used or disclosed
2 by the parties, counsel for the parties or any other persons identified in subparagraph (b) for any
3 purpose whatsoever other than in this litigation, including any appeal thereof.

4 (b) **Limited Third-Party Disclosures.** The parties and counsel for the parties
5 shall not disclose or permit the disclosure of any Confidential Information to any third person or
6 entity except as set forth in subparagraphs (1)–(9). Subject to these requirements, the following
7 categories of persons may be allowed to review Confidential Information:
8

- 9 (1) **Counsel.** Counsel for the parties and employees of counsel who have
10 responsibility for the action;
- 11 (2) **Parties.** Individual parties and employees of a party but only to the
12 extent counsel determines in good faith that the employee's assistance is
13 reasonably necessary to the conduct of the litigation in which the
14 information is disclosed;
- 15 (3) **The Court and its personnel;**
- 16 (4) **Court Reporters and Recorders.** Court reporters and recorders
17 engaged for depositions;
- 18 (5) **Contractors.** Those persons specifically engaged for the limited
19 purpose of making copies of documents or organizing or processing
20 documents, including outside vendors hired to process electronically
21 stored documents;
- 22 (6) **Consultants and Experts.** Consultants, investigators, or experts
23 employed by the parties or counsel for the parties to assist in the
24 preparation and trial of this action;
- 25 (7) **Witnesses at depositions.** During their depositions, witnesses in this
26 action to whom disclosure is reasonably necessary. Witnesses shall not
27 retain a copy of documents containing Confidential Information, except
28 witnesses may receive a copy of all exhibits marked at their depositions
in connection with review of the transcripts. Pages of transcribed
deposition testimony or exhibits to depositions that are designated as
Confidential Information pursuant to the process set out in this Order
must be separately bound by the court reporter and may not be disclosed
to anyone except as permitted under this Order.
- (8) **Author or recipient.** The author or recipient of the document (not
including a person who received the document in the course of
litigation); and

1 (9) **Others by Consent.** Other persons only by written consent of the
2 producing party or upon order of the Court and on such conditions as
3 may be agreed or ordered, but only after such persons have completed
the certification contained in Attachment A – Acknowledgment of
Understanding and Agreement to Be Bound.

4 (c) **Control of Documents.** Counsel for the parties shall make reasonable efforts
5 to prevent unauthorized or inadvertent disclosure of Confidential Information. Counsel shall
6 maintain the originals of the forms signed by persons acknowledging their obligations under this
7 Order for a period of three years after the termination of the case.

8 6. **Inadvertent Failure to Designate.** An inadvertent failure to designate a document as
9 Confidential Information does not, standing alone, waive the right to so designate the document;
10 provided, however, that a failure to serve a timely Notice of Designation of deposition testimony as
11 required by this Order, even if inadvertent, waives any protection for deposition testimony. If a party
12 designates a document as Confidential Information after it was initially produced, the receiving
13 party, on notification of the designation, must make a reasonable effort to assure that the document is
14 treated in accordance with the provisions of this Order. No party shall be found to have violated this
15 Order for failing to maintain the confidentiality of material during a time when that material has not
16 been designated Confidential Information, even where the failure to so designate was inadvertent and
17 where the material is subsequently designated Confidential Information.

18 7. **Filing of Confidential Information.** This Order does not, by itself, authorize the
19 filing of any document under seal. Any party wishing to file a document designated as Confidential
20 Information in connection with a motion, brief or other submission to the Court must comply with
21 LR IA 10-5.

22 8. **No Greater Protection of Specific Documents.** Except on privilege grounds not
23 addressed by this Order, no party may withhold information from discovery on the ground that it
24 requires protection greater than that afforded by this Order unless the party moves for an order
25 providing such special protection.
26
27
28

1 9. **Challenges by a Party to Designation as Confidential Information.** The
2 designation of any material or document as Confidential Information is subject to challenge by any
3 party. The following procedure shall apply to any such challenge.

4 (a) **Meet and Confer.** A party challenging the designation of Confidential
5 Information must do so in good faith and must begin the process by conferring directly with counsel
6 for the designating party. In conferring, the challenging party must explain the basis for its belief that
7 the confidentiality designation was not proper and must give the designating party an opportunity to
8 review the designated material, to reconsider the designation, and, if no change in designation is
9 offered, to explain the basis for the designation. The designating party must respond to the challenge
10 within five (5) business days.

11 (b) **Judicial Intervention.** A party that elects to challenge a confidentiality
12 designation may file and serve a motion that identifies the challenged material and sets forth in detail
13 the basis for the challenge. Each such motion must be accompanied by a competent declaration that
14 affirms that the movant has complied with the meet and confer requirements of this procedure. The
15 burden of persuasion in any such challenge proceeding shall be on the designating party. Until the
16 Court rules on the challenge, all parties shall continue to treat the materials as Confidential
17 Information under the terms of this Order.

18 10. **Action by the Court.** Applications to the Court for an order relating to materials or
19 documents designated Confidential Information shall be by motion. Nothing in this Order or any
20 action or agreement of a party under this Order limits the Court's power to make orders concerning
21 the disclosure of documents produced in discovery or at trial.

22 11. **Use of Confidential Documents or Information at Trial.** Nothing in this Order
23 shall be construed to affect the use of any document, material, or information at any trial or hearing.
24 A party that intends to present or that anticipates that another party may present Confidential
25
26
27
28

1 information at a hearing or trial shall bring that issue to the Court's and parties' attention by motion
2 or in a pretrial memorandum without disclosing the Confidential Information. The Court may
3 thereafter make such orders as are necessary to govern the use of such documents or information at
4 trial.

5 12. **Confidential Information Subpoenaed or Ordered Produced in Other**
6 **Litigation.**

7 (a) If a receiving party is served with a subpoena or an order issued in other
8 litigation that would compel disclosure of any material or document designated in this action as
9 Confidential Information, the receiving party must so notify the designating party, in writing,
10 immediately and in no event more than three court days after receiving the subpoena or order. Such
11 notification must include a copy of the subpoena or court order.
12

13 (b) The receiving party also must immediately inform in writing the party who
14 caused the subpoena or order to issue in the other litigation that some or all of the material covered by
15 the subpoena or order is the subject of this Order. In addition, the receiving party must deliver a copy
16 of this Order promptly to the party in the other action that caused the subpoena to issue.
17

18 (c) The purpose of imposing these duties is to alert the interested persons to the
19 existence of this Order and to afford the designating party in this case an opportunity to try to protect
20 its Confidential Information in the court from which the subpoena or order issued. The designating
21 party shall bear the burden and the expense of seeking protection in that court of its Confidential
22 Information, and nothing in these provisions should be construed as authorizing or encouraging a
23 receiving party in this action to disobey a lawful directive from another court. The obligations set
24 forth in this paragraph remain in effect while the party has in its possession, custody or control
25 Confidential Information by the other party to this case.
26
27
28

1 13. **Challenges by Members of the Public to Sealing Orders.** A party or interested
2 member of the public has a right to challenge the sealing of particular documents that have been filed
3 under seal, and the party asserting confidentiality will have the burden of demonstrating the propriety
4 of filing under seal.

5 14. **Obligations on Conclusion of Litigation.**

6 (a) Order Continues in Force. Unless otherwise agreed or ordered, this Order
7 shall remain in force after dismissal or entry of final judgment not subject to further appeal.
8

9 (b) Obligations at Conclusion of Litigation. Upon dismissal or entry of final
10 judgment not subject to further appeal, all Confidential Information and documents marked
11 “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” under this Order, including copies as
12 defined in ¶ 3(a), shall be returned to the producing party unless: (1) the document has been offered
13 into evidence or filed without restriction as to disclosure; (2) the parties agree to destruction to the
14 extent practicable in lieu of return;⁴ or (3) as to documents bearing the notations, summations, or
15 other mental impressions of the receiving party, that party elects to destroy the documents and
16 certifies to the producing party that it has done so.
17

18 (c) **Retention of Work Product and one set of Filed Documents.**

19 Notwithstanding the above requirements to return or destroy documents, counsel may retain (1)
20 attorney work product, including an index that refers or relates to designated Confidential
21 Information so long as that work product does not duplicate verbatim substantial portions of
22 Confidential Information, and (2) one complete set of all documents filed with the Court including
23 those filed under seal. Any retained Confidential Information shall continue to be protected under
24
25

26 ⁴ The parties may choose to agree that the receiving party shall destroy documents containing Confidential
27 Information and certify the fact of destruction, and that the receiving party shall not be required to locate, isolate and
28 return e-mails (including attachments to e-mails) that may include Confidential Information, or Confidential Information
contained in deposition transcripts or drafts or final expert reports.

1 this Order. An attorney may use his or her work product in subsequent litigation, provided that its use
2 does not disclose or use Confidential Information.

3 (d) **Deletion of Documents filed under Seal from Electronic Case Filing**
4 **(ECF) System.** Filings under seal shall be deleted from the ECF system only upon order of the
5 Court.

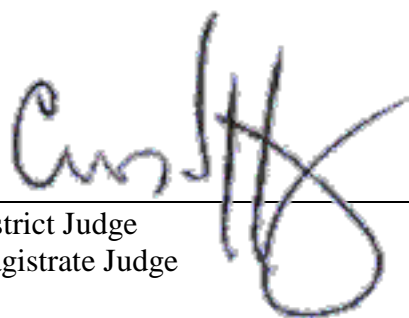
6 15. **Order Subject to Modification.** This Order shall be subject to modification by the
7 Court on its own initiative or on motion of a party or any other person with standing concerning the
8 subject matter.

9 16. **No Prior Judicial Determination.** This Order is entered based on the representations
10 and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be
11 construed or presented as a judicial determination that any document or material designated
12 Confidential Information by counsel or the parties is entitled to protection under Rule 26(c) of the
13 Federal Rules of Civil Procedure or otherwise until such time as the Court may rule on a specific
14 document or issue.

15 17. **Persons Bound.** This Order shall take effect when entered and shall be binding upon
16 all counsel of record and their law firms, the parties, and persons made subject to this Order by its
17 terms. Experts and consultants retained by the parties must agree in writing to be bound by this
18 Order.

19 **So Ordered.**

20 Dated: _ May 8 _____, 2017

21 
22 _____
23 U.S. District Judge
24 U.S. Magistrate Judge

25 WE SO MOVE
26 And agree to abide by
27 the terms of this Order

28 Alexis Wood
Ronald A. Marron

WE SO MOVE
And agree to abide by
the terms of this Order

Anna M. Martin
MESERVE, MUMPER & HUGHES LLP

1 Kas Gallucci
LAW OFFICES OF RONALD A. MARRON Chad R. Fuller
2 Virginia Bell Flynn
Kevin L. Hernandez TROUTMAN SANDERS LLP
3 LAW OFFICE OF KEVIN L.
4 HERNANDEZ *Counsel for Amerigroup Corporation*
5 *Counsel for Plaintiff and the Proposed Class*
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28